

In the Claims:

Claim 1 (Currently Amended). An apparatus for moving at least a portion of a tissue, the tissue having two tissue sections, the apparatus comprising:

an elongate body having a non-expandable portion and an magnetically manipulatable distal end;

a first tissue engaging member at or near the distal end and being configured to contact a first tissue section;

a second tissue engaging member at or near the distal end, being movable relative to ~~said the~~ first tissue engaging member, ~~in order~~ and configured to contact a second tissue section;

a magnetizable material being disposed in or on at least ~~one of said~~ a portion of the first and or second tissue engaging member[[s]]; and

an electromagnet disposed in or on at least ~~one of said first and second~~ the other tissue engaging member[[s]],

wherein generation of a magnetic field moves ~~at least one of said the first and~~ second tissue engaging member[[s]] relative to the ~~other first~~ tissue engaging member.

Claim 2 (Previously Presented). The apparatus of claim 1, wherein the magnetizable material is a permanent magnet.

Claim 3 (Currently Amended). The apparatus of claim 1, wherein the first and second tissue engaging members are include electromagnets.

Claim 4 (Currently Amended). The apparatus of claim 54, wherein the strength of the electromagnet is variable adjustable and to move the medical implant is positionable through at least a portion of the tissue.

Claim 5 (Previously Presented). The apparatus of claim 1, wherein the electromagnet creates a magnetic field having a polarity and said polarity is reversible.

Claim 6 (Previously Presented). The apparatus of claim 1, further comprising a controller, the controller being configured to control the electromagnet.

Claim 7 (Currently Amended). The apparatus of claim 54, wherein the electromagnet is configured to selectably selectively adjust the position[[able]] ~~to move of~~ the medical implant ~~through with respect to at least a portion~~ the tissue.

Claims 8-15 (Cancelled).

Claim 16 (Withdrawn). The apparatus assembly of claim 54, wherein the medical implant is made of a bio-resorbable material.

Claim 17 (Previously Presented). The apparatus assembly of claim 54, further comprising a suture attached to the medical implant.

Claim 18 (Withdrawn). The apparatus assembly of claim 54, wherein the medical implant is a suture.

Claim 19 (Previously Presented). The apparatus assembly of claim 54, wherein the medical implant is a needle.

Claims 20-23 (Cancelled).

Claim 24 (Currently Amended). The apparatus of claim 1, wherein the electromagnet is ~~positioned~~ configured to be positionable adjacent to the tissue.

Claim 25 (Cancelled).

Claim 26 (Withdrawn). A surgical instrument for delivery of an implant through tissue by magnetic attraction, comprising:

a body;

a carrier located on the body for removably securing at least a portion of the implant to the instrument;

a tip located at a distal end of the body and configured and dimensioned for insertion through the tissue; and

a magnetic element located on the body, wherein interaction between the magnetic element and a magnetic field creates magnetic attraction to drive the implant through the tissue.

Claim 27 (Withdrawn). The instrument of claim 26, wherein the magnetic element is part of the body.

Claim 28 (Withdrawn). The instrument of claim 26, wherein the magnetic element is attached to the body.

Claim 29 (Withdrawn). The instrument of claim 26, wherein the magnetic element is a permanent magnet.

Claim 30 (Withdrawn). The instrument of claim 26, wherein the magnetic element is an electromagnet.

Claim 31 (Withdrawn). The instrument of claim 26, wherein the magnetic element is movable to provide directional control of the instrument as it is driven through the tissue.

Claim 32 (Previously Presented). The apparatus according to claim 1, wherein said electromagnet creates a magnetic field that attracts said magnetizable material and a biasing member tends to spread said first tissue engaging member from said second tissue engaging member.

Claim 33 (Previously Presented). The apparatus according to claim 1, wherein said magnetizable material creates a magnetic field and said electromagnet creates a magnetic field that repels said magnetic field of said magnetizable material.

Claim 34 (Previously Presented). The apparatus according to claim 33, further comprising a biasing member tending to compress said first tissue engaging member toward said second tissue engaging member.

Claim 35 (Previously Presented). The apparatus according to claim 54, wherein said electromagnet creates a magnetic field that attracts said magnetizable material to urge the medical implant into at least a portion of the tissue by attracting said first tissue engaging member to said second tissue engaging member and includes a means for mechanically urging said first tissue engaging member toward said second tissue engaging member.

Claim 36 (Previously Presented). The apparatus according to claim 35, further comprising a biasing member tending to spread said first tissue engaging member from said second tissue engaging member.

Claim 37 (Previously Presented). The apparatus according to claim 40, wherein said magnetizable material is a permanent magnet.

Claim 38 (Previously Presented). The apparatus according to claim 1, wherein said magnetizable material includes iron.

Claim 39 (Previously Presented). The apparatus according to claim 40, wherein said magnetizable material is an electromagnet.

Claim 40 (Currently Amended). An apparatus for ~~moving~~ positioning a medical implant ~~through or a tissue~~ of a patient, the tissue having two tissue sections, the apparatus comprising:

~~a first handle;~~

~~a second handle;~~

an elongate body having a non-expandable portion and a magnetically manipulatable distal end including a first tissue engaging member, a second tissue engaging member, and a pivot, at or near the distal end and connecting said first handle to said second handle being configured to grasp at least a portion of the medical implant or tissue;

~~a first tissue engaging member being connected to said first handle and configured to releasably hold the medical implant and to contact a first tissue section;~~

~~[[a]] the second tissue engaging member being connected to said second handle the pivot and configured to be movable relative to [[said]] the first tissue engaging member in order to contact a second tissue section and to penetrate the medical implant into the tissue;~~

a magnetizable material being disposed in or on ~~at least one of said~~ the first and or second tissue engaging member[[s]]; and

a magnetic field generator disposed in or on ~~at least one of said~~ the other first and second tissue engaging member[[s]],

wherein generation of a magnetic field moves ~~at least one of said first and~~ the second tissue engaging member[[s]] relative to the ~~other~~ first tissue engaging member to drive position at least a portion of the medical implant ~~into or at least a portion of the first and second tissue sections.~~

Claim 41 (Currently Amended). The apparatus according to claim 40, wherein said magnetic field generator attracts said magnetizable material to penetrate the medical implant into the tissue ~~and said first handle and said second handle spread said first tissue engaging member and said second tissue engaging member when actuated.~~

Claim 42 (Previously Presented). The apparatus according to claim 40, wherein said magnetic field generator repels said magnetizable material to spread said first tissue engaging member and said second tissue engaging member and said first handle and said second handle compress said first tissue engaging member toward said second tissue engaging member to penetrate the medical implant into the tissue when actuated.

Claim 43 (Currently Amended). The apparatus according to claim 40, wherein said magnetic field generator attracts said magnetizable material to penetrate the medical implant into the tissue; ~~said first handle and said second handle compress said first tissue engaging member toward said second tissue engaging member to penetrate the medical implant into the tissue; and~~ a biasing member connected to said first tissue engaging member and said second tissue engaging member to spread said first and second tissue engaging members ~~relative to said second tissue engaging member.~~

Claim 44 (Currently Amended). The apparatus of claim 1, wherein a location of said magnetic field is alterable to provide directional control of ~~[[the]]~~ a medical implant as it is driven through the tissue.

Claim 45 (Withdrawn). The instrument of claim 26, wherein a location of said magnetic field is alterable to provide directional control of the implant as the implant is driven through the tissue.

Claim 46 (Previously Presented). The apparatus according to claim 40, wherein a location of said magnetic field is alterable to provide directional control of the medical implant as it is driven through the tissue.

Claim 47 (Previously Presented). The apparatus of claim 1, wherein the first and second tissue engaging members include electromagnets.

Claim 48 (Previously Presented). The apparatus of claim 47, wherein said electromagnets are selectively activatable and deactivatable to move a medical implant back and forth through the tissue.

Claim 49 (Previously Presented). The apparatus according to claim 40, wherein the magnetic field generator and the magnetizable material are electromagnets.

Claim 50 (Previously Presented). The apparatus according to claim 49, wherein said electromagnets are selectively activatable and deactivatable to move the medical implant back and forth through the tissue.

Claim 51 (Withdrawn). The apparatus according to claim 26, wherein said carrier is a slot formed in said body for receiving the at least a portion of the implant.

Claim 52 (Withdrawn). The apparatus according to claim 26, wherein said carrier is an eyelet formed in said body for receiving the at least a portion of the implant.

Claim 53 (Withdrawn). The apparatus according to claim 26, wherein said carrier is a barb connected to said body for releasably securing the at least a portion of the implant.

Claim 54 (Currently Amended). An apparatus assembly, comprising:

the apparatus according to claim 1; and

a medical implant being ~~initially~~ releasably connected to at least ~~one of said~~ the first ~~[[and]]~~ or second tissue engaging member~~[[s]]~~.

Claim 55 (Currently Amended). The apparatus according to claim 1, further comprising a holder connected to said first tissue engaging member for releasably holding ~~[[the]]~~ a medical implant.

Claim 56 (Currently Amended). An apparatus assembly, comprising:

the apparatus according to claim 40; and

a medical implant being ~~initially~~ releasably connected to at least ~~one of said~~ the first ~~[[and]]~~ or second tissue engaging member~~[[s]]~~.

Claim 57 (Previously Presented). The apparatus according to claim 40, further comprising a holder connected to said first tissue engaging member for releasably holding the medical implant.

Claim 58 (Previously Presented). The apparatus according to claim 54, wherein the medical implant includes a medical implement.

Claim 59 (Previously Presented). The apparatus according the claim 40, wherein the medical implant includes a medical implement.

Claim 60 (Previously Presented). The apparatus according to claim 54, wherein the medical implant includes a magnetic component.

Claim 61 (Previously Presented). The apparatus according to claim 40, wherein the medical implant includes a magnetic component.